IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1839 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHAVISHABEN NIRANJANBHAI PATEL - Petitioner(s)
Versus
STATE OF GUJARAT THR' SECRETARY & 2 - Respondent(s)

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Appearance :
MR BG PATEL for Petitioner(s) : 1,
MR MEETA PANCHAL GOVERNMENT PLEADER for Respondent(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 22/03/2006

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India the petitioner has prayed for directions to the respondents to correct the name of the petitioner's father as Niranjanbhai Ravjibhai Patel instead

of Narsinhbhai Ravjibhai Patel in her Birth Certificate issued by the respondent No. 3.

2. The case of the petitioner is that she was born on 11-1-1982 at Joshikuva village, Taluka Anklav, District Anand and her birth was registered in the Birth Register, but due to mistake the name of father of the petitioner was recorded in the Births Register as Narsinhbhai Ravjibhai Patel instead of Niranjanbhai Ravjibhai Patel. Thereafter, the petitioner obtained admission in the school where in the record the name of the petitioner's father was correctly recorded as Niranjanbhai Ravjibhai Patel. The School Leaving Certificate issued by J.D. Patel High School (originally E.M. High School0, Borsad has recorded correct name of her father as “Niranjanbhai”. When the petitioner went to obtain her birth certificate she came to know that her father's name recorded in the Births Register is “Narsinhbhai” Therefore, the petitioner made an application on 31-1-2006 to the respondent No.3 – Talati-cum-Mantri, Joshikuva Village to correct the name of her father. The petitioner has also submitted the evidence, affidavits and other material indicating correct name of her father as Niranjanbhai Ravjibhai Patel. However, the respondent No.3 did not correct the name of her father and directed the petitioner to obtain order from the court of law and hence the present petition.

3. Learned advocate for the petitioner submitted that under the provisions of Section 15 of the Registration of Births and Deaths Act, 1969 (Hereinafter referred to as “the Act”) the Registrar has power to make correction in the record of births and deaths and therefore the respondent No.3 has illegally and erroneously rejected the petitioner's application.

4. Mr. K.L. Pandya, learned A.G.P. For the respondent – State submitted that the respondent No.3 is the Registrar of Births and Deaths under the provisions of the Act and therefore he has authority and power to make correction in the birth record regarding the birth.

5. Section 15 of the Act provides as under :

“Section 15 – **Correction or cancellation of entry in the register of births and deaths –** If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of correct or cancellation.”

6. In view of above provision, it is clear that present

respondent No.3 has power and authority to make correction in the Register of Births and Deaths kept under the Act. It is evident from the averments made in the application that the necessary documentary evidence was produced by the petitioner before the respondent No.3 to make correction in her father's name in the record of Register of Births and Deaths. However, the respondent No.3 did not make necessary correction as prayed for by the petitioner. A copy of the Certificate of Birth is annexed at Annexure-A to the compilation which indicates that the name of the petitioner's father was wrongly recorded as Narsinhbhai Ravjibhai Patel. A copy of the School Leaving Certificate given by J.D. Patel High School (Original E.M. High School, Borsad) produced at Annexure-B to the compilation indicates that the petitioner's father name was recorded as Niranjanbhai Ravjibhai Patel. In view of this, it appears that the respondents have committed error in directing the petitioner to approach the Court for correction of her father's name in the Register of Births and Deaths kept under the said Act.

7. In view of above, this petition is allowed and the impugned decision taken by the respondent No. 3 directing the petitioner to obtain the order from the court of law is quashed and set aside. The respondents are directed to reconsider and decide the application of the

petitioner in accordance with law and in light of the provisions of Section 15 of the Registration of Births and Deaths Act, 1969 on the basis of the material produced by the petitioner before him within a period of three months from the date of receipt of writ of this Court. Rule is made absolute to the aforesaid extent, with no order as to costs.. D.S. is permitted.

(Bankim N. Mehta, J.)

/JVSatwara/